

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

HONORABLE NANCY G. EDMUNDS

v.

No. 14-CR-20119

D-1 RAMIAH JEFFERSON  
D-2 DRAKKAR BERAL CUNNINGHAM  
D-3 EVAN ALEXANDER JOHNSON  
D-4 MARIO PHILLIP GARNES  
D-5 ALEXANDER DESHAWN GEORGE  
D-6 MARCUS ANDRE HARVEY  
D-7 EVERETTE RAMON GEORGE  
D-8 GERALD DESHAWN TURNER  
D-9 DAVID LAMAR GAY

Defendants.

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EXCERPT OF MOTION HEARING

Monday, June 22, 2015

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**I N D E X**

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Proceeding

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(Excerpt of Motion Hearing)

Defendant's Case in Chief

Witness: LaVonna Howard

Direct Examination by Mr. Scharg

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LaVonna Howard - Direct Examination  
Monday, June 22, 2015

1 Detroit, Michigan  
2 Monday, June 22, 2015  
3 10:13 a.m.

4 - - -

5 **LAVONNA HOWARD,**

6 being first duly sworn by the Court to tell the truth,  
7 was examined and testified upon her oath as follows:

10:36 8 **THE COURT:** Take the stand, please.

10:36 9 Mr. Scharg, you may proceed.

10:36 10 (10:36 a.m.)

10:36 11 **DIRECT EXAMINATION**

10:36 12 **BY MR. SCHARG:**

10:36 13 Q. Good morning, witness, please state your name.

10:36 14 A. LaVonna Nishelle Howard.

10:36 15 Q. Ms. Howard, I'm going to take you back to March 30 of  
10:36 16 2013.

10:36 17 A. Yes.

10:37 18 Q. Okay. And were you with your mother, Sue Golston, about  
10:37 19 5:00 in the afternoon on that date?

10:37 20 A. Yes.

10:37 21 Q. And did you happen to be at 15865 Stout in the City of  
10:37 22 Detroit?

10:37 23 A. Yes.

10:37 24 Q. And does your mother live there?

10:37 25 A. She lives across the street.

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10:37 1 Q. Okay. And does your father live there?

10:37 2 A. Yes.

10:37 3 Q. Okay. And did there come a time when an individual

10:37 4 approached your father?

10:37 5 A. Yes.

10:37 6 Q. And where was he at that time?

10:37 7 A. He was standing in the front yard.

10:37 8 Q. Okay. And where were you?

10:37 9 A. I was -- my sister lives next door, so I was standing on

10:37 10 my sister's porch.

10:37 11 Q. Approximately how far were you standing from your father?

10:37 12 A. Maybe this desk to the wall.

10:37 13 **MR. SCHARG:** Can we stipulate approximately 15 to

10:37 14 20 feet?

10:37 15 **MR. DOEH:** Yes, Your Honor.

10:38 16 **THE COURT:** That looks about right.

10:38 17 **BY MR. SCHARG:**

10:38 18 Q. And the individual that approached your father, did you

10:38 19 have an opportunity to observe him?

10:38 20 A. Yes.

10:38 21 Q. Can you describe him at that time?

10:38 22 A. I would guess him to be in his late twenties, maybe early

10:38 23 30's, approximately six feet, light skinned, wearing blue

10:38 24 jeans. He had on a gray sweatshirt with lettering across the

10:38 25 front which was HFCC. He had on tan boots that were, like, of

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10:38 1 a Timberland style.

10:38 2 Q. And did you see where he had come from?

10:38 3 A. Yes.

10:38 4 Q. And where was that?

10:38 5 A. He came -- he got out of a vehicle that parked across the

10:38 6 street.

10:38 7 Q. Could you tell what type of vehicle it was at the time?

10:38 8 A. I could. I can't remember exactly what the car -- I

10:38 9 remember what it looks like. I don't remember the style, the

10:38 10 make or model.

10:38 11 Q. Okay. From the time that he exited the vehicle and made

10:39 12 contact with your father and then left, did he leave in the

10:39 13 car?

10:39 14 A. Yes, he did.

10:39 15 Q. How long did that whole incident take in terms of time?

10:39 16 From the time he got out of the car, he approached your

10:39 17 father, and he made contact with your mother, is that correct?

10:39 18 A. Yes.

10:39 19 Q. And then he got back into his car and he left?

10:39 20 A. Yes.

10:39 21 Q. Would you say that was more than a minute?

10:39 22 A. Yes.

10:39 23 Q. How much more?

10:39 24 A. Somewhere between that and five minutes.

10:39 25 Q. Between one minute and five minutes?

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10:39 1 A. Yes.

10:39 2 Q. And is it fair to say that you did not look at him the

10:39 3 entire time? Did you observe him the whole time?

10:39 4 A. Yes, I did.

10:39 5 Q. At some point, did you see him pull some type of object

10:39 6 out of his pocket?

10:39 7 A. Yes, I did.

10:39 8 Q. And what was that?

10:39 9 A. A gun.

10:39 10 Q. Did you see anything else come out of his pocket at that

10:39 11 time?

10:39 12 A. There was a piece of paper that fell.

10:40 13 Q. Did you see it fall out of his pocket?

10:40 14 A. Yes.

10:40 15 Q. After the, this incident, the perpetrator left the scene?

10:40 16 A. Yes, he did.

10:40 17 Q. And what did you do?

10:40 18 A. I got in my car, and I was going to go to the police

10:40 19 department. The closest one to their location is Plymouth and

10:40 20 near Evergreen.

10:40 21 Q. Yes?

10:40 22 A. So I was headed there, but as I turned -- they live off of

10:40 23 Fenkell. As I turned off of Fenkell and approached Evergreen,

10:40 24 I happened to see a police officer coming out of the gas

10:40 25 station at that point, and I flagged him down.

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10:40 1 Q. Very good. When you flagged down the officer, was it one  
10:40 2 or two officers?  
10:40 3 A. Two.  
10:40 4 Q. Could you describe whether they were white or black or --  
10:40 5 A. I believe one was --  
10:40 6 **MR. DOEH:** Objection, Your Honor --  
10:40 7 A. -- black --  
10:40 8 **MR. DOEH:** -- what does that matter?  
10:40 9 A. -- and one was white.  
10:40 10 **THE COURT:** Overruled. Go ahead.  
10:40 11 **MR. SCHARG:** I'll move on.  
10:40 12 **BY MR. SCHARG:**  
10:40 13 Q. You spoke with the officers? Besides giving them your  
10:40 14 name and your phone number, did you give any description  
10:41 15 regarding the person, the perpetrator of this crime or a  
10:41 16 description of the vehicle?  
10:41 17 A. The car, yes, not the person.  
10:41 18 Q. You didn't give a description of the individual?  
10:41 19 A. No.  
10:41 20 Q. And why not?  
10:41 21 A. He didn't ask for it.  
10:41 22 Q. Okay. But you gave a description of the vehicle?  
10:41 23 A. Yes.  
10:41 24 Q. And what did you give as a description of the vehicle?  
10:41 25 A. As I said, I can't remember the make of the car. I



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10:41 1 remember it being silver.

10:41 2 Q. Okay. Now, did you speak with police five days later, on  
10:41 3 April 4<sup>th</sup>?

10:41 4 A. Probably was approximately, yes.

10:41 5 Q. Okay. Did some police officers come to your home in Oak  
10:41 6 Park?

10:41 7 A. Yes, they did.

10:41 8 Q. Okay. Between the time that you spoke to the officers  
10:41 9 that you had flagged down at the gas station and the time that  
10:41 10 some officers arrived at your house on April 4<sup>th</sup>, did you  
10:41 11 talk to any police officers, giving a description of the  
10:41 12 perpetrator?

10:41 13 A. I went to the Sixth Precinct after picking up that piece  
10:42 14 of paper to give them that. They told me that the officer  
10:42 15 that I had spoken to that day should have made a report  
10:42 16 already, so they basically just gave it back to me.

10:42 17 Q. Okay. So you went to the police station the same day of  
10:42 18 the incident, or --

10:42 19 A. No, I think it was that Monday because Sunday -- this  
10:42 20 happened the day before Easter.

10:42 21 Q. On a Saturday?

10:42 22 A. Yes.

10:42 23 Q. Okay.

10:42 24 A. So it was most likely that Monday.

10:42 25 Q. So you had the piece of paper which was some type of

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10:42 1 automotive receipt?

10:42 2 A. Yes.

10:42 3 Q. You had it that day, Saturday?

10:42 4 A. I had it Sunday.

10:42 5 Q. Sunday, you received it from your brother?

10:42 6 A. Yes.

10:42 7 Q. Okay. At church?

10:42 8 A. Yes.

10:42 9 Q. Okay. And you went to the police station on Monday, is

10:42 10 that correct?

10:42 11 A. Yes.

10:42 12 Q. And Monday you went with this receipt?

10:42 13 A. Yes.

10:42 14 Q. And you went with -- to make a statement?

10:42 15 A. Yes.

10:42 16 Q. And they did not -- they refused to take a statement from

10:42 17 you?

10:42 18 A. Yes, they did.

10:43 19 Q. And what precinct was that?

10:43 20 A. Sixth Precinct that's on Plymouth Road near Evergreen in

10:43 21 Detroit.

10:43 22 Q. Okay. Now, going forward from Monday, later that week

10:43 23 several Detroit police officers came to your house in Oak

10:43 24 Park?

10:43 25 A. Yes.

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10:43 1 Q. And did they come to your house to talk to you about the  
10:43 2 incident that occurred with your father, the attempted  
10:43 3 robbery, or did they come regarding another incident?  
10:43 4 A. No, they came regarding that incident with my dad.  
10:43 5 Q. Okay. Do you know an individual by the name of Darlene  
10:43 6 Griffin?  
10:43 7 A. No.  
10:43 8 Q. Okay. So on April 4<sup>th</sup>, officers came to your house in  
10:43 9 Oak Park regarding the attempted robbery?  
10:43 10 A. Yes.  
10:43 11 Q. How many times did they come to your house that day?  
10:43 12 A. Twice.  
10:43 13 Q. Okay. The first time they came to your house, would that  
10:43 14 have been in the morning?  
10:43 15 A. It might have been late morning.  
10:43 16 Q. Okay. And what did you discuss at that time?  
10:43 17 A. They took a statement as to what happened.  
10:43 18 Q. Okay.  
10:43 19 A. So we discussed the events of that day.  
10:44 20 Q. Okay. And did you give them a copy of the description of  
10:44 21 the vehicle at that time? Did you give them a copy of the  
10:44 22 receipt?  
10:44 23 A. Yes.  
10:44 24 Q. The repair receipt at that time?  
10:44 25 A. Yes, I did.

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10:44 1 Q. And did they show you any pictures at that time?

10:44 2 A. Not at that time, no.

10:44 3 Q. Okay. Now, they returned to your -- the same officers

10:44 4 returned to your house later that day?

10:44 5 A. Yes, they did.

10:44 6 Q. Would that have been Officer Little, Patricia Little?

10:44 7 A. Yes.

10:44 8 Q. And another officer by the name of Robert Holmes?

10:44 9 A. Sounds familiar, yes.

10:44 10 Q. Okay. Did you know they were going to come back that

10:44 11 afternoon?

10:44 12 A. Yes, I did.

10:44 13 Q. Later that day. And what was the reason for them to come

10:45 14 back?

10:45 15 A. With the photo lineup.

10:45 16 Q. Okay. Now, other than -- so on the 4<sup>th</sup> of April, that's

10:45 17 the first time you gave any police officer a description of

10:45 18 the perpetrator, is that correct?

10:45 19 A. That's the first opportunity I had to give them, yes.

10:45 20 Q. Okay. But that's also the first time.

10:45 21 A. Yes.

10:45 22 Q. And did you have an opportunity prior to April 4<sup>th</sup> to

10:45 23 write down, you know, a description of the person that you

10:45 24 saw?

10:45 25 A. If I had done it on my own, but I didn't need to write

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10:45 1 down a description.

10:45 2 Q. Okay. And one more question and I'll move on to the photo  
10:45 3 array itself. You stated that at the -- on the day of this  
10:46 4 attempted robbery when you flagged down the police car, you  
10:46 5 gave a description of the vehicle itself?

10:46 6 A. Uh-huh.

10:46 7 Q. Other than -- and you're positive that you gave a  
10:46 8 description?

10:46 9 A. I told them what kind of car it was, yes.

10:46 10 Q. Which was a gray car?

10:46 11 A. If I can remember right.

10:46 12 Q. Oh, you don't even remember what you told them?

10:46 13 A. It's been two years ago, sir.

10:46 14 Q. Okay. But you remember you gave him a description of the  
10:46 15 car?

10:46 16 A. Yes.

10:46 17 Q. And as you did with the description of the perpetrator,  
10:46 18 when it came to April 4<sup>th</sup>, when you talked to Officer Holmes  
10:46 19 and Officer Little, is it fair to say, did you give them a  
10:46 20 description that day of the vehicle you saw?

10:46 21 A. It would be fair to say, yes.

10:46 22 Q. And you're sure you saw an individual, the perpetrator,  
10:46 23 the person who attempted to rob your parents, you are positive  
10:46 24 you saw him step out of a car and get back into a car.

10:47 25 A. Yes, I am, very positive.

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10:47 1 Q. Okay. Now, when the officers came back later that day,  
10:47 2 they had some pictures for you to look at?  
10:47 3 A. Yes, they did.  
10:47 4 Q. Do you recall, were they single photographs, or were they  
10:47 5 in some type of board, a six pack, they would call it?  
10:47 6 A. Yes.  
10:47 7 Q. Is that what it was, a six pack?  
10:47 8 A. It was six photos on one paper.  
10:47 9 Q. And what were you told before you looked at the photos?  
10:47 10 Were you asked if you could identify the person if you saw him  
10:47 11 again?  
10:47 12 A. Yes.  
10:47 13 Q. Okay. And your response was?  
10:47 14 A. I viewed the photos and I picked out the guy that was  
10:47 15 there.  
10:47 16 Q. Were you told that the person who attempted to rob your  
10:47 17 parents would be in those, in that group of photos?  
10:47 18 A. No.  
10:47 19 Q. What were you told, specifically?  
10:47 20 A. I was asked if I could identify the person from that  
10:47 21 particular incident that day.  
10:47 22 Q. And that's a person you had never seen before that day, is  
10:47 23 that correct?  
10:47 24 A. No, I had not.  
10:47 25 Q. And you've never seen him since?

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10:47 1 A. I saw him in court after that.

10:47 2 Q. No, but you hadn't seen him from the time of the robbery

10:48 3 on March 30<sup>th</sup>, you had not seen him before March 30<sup>th</sup>?

10:48 4 A. No, I had not.

10:48 5 Q. And you had not seen him again when you went through these

10:48 6 photographs, is that correct?

10:48 7 A. No, I had not.

10:48 8 Q. But after the attempted robbery, you did drive through the

10:48 9 neighborhood looking for him or his vehicle, is that correct?

10:48 10 A. Yes.

10:48 11 Q. And you also saw some vehicles that looked like the

10:48 12 vehicle that was used, is that correct?

10:48 13 A. Yes.

10:48 14 Q. And you thought that one of those vehicles was the getaway

10:48 15 car?

10:48 16 **MR. DOEH:** Objection, Your Honor. What does that

10:48 17 have to do with --

10:48 18 **THE COURT:** Sustained.

10:48 19 **MR. SCHARG:** It goes to --

10:48 20 **THE COURT:** Sustained.

10:48 21 **MR. SCHARG:** It says -- there's a sticker,

10:48 22 Government Exhibit 1. Can we just roll with that?

10:49 23 **THE COURT:** Sure.

10:49 24 **MR. SCHARG:** May I approach?

10:49 25 **THE COURT:** You may.

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**BY MR. SCHARG:**

Q. Ms. Howard, I'm going to give you proposed Exhibit 1 and ask you if that's the photo array that you saw on that day.

A. Yes, it is.

Q. All right. And when you looked at that, when you viewed that array, who was present besides yourself?

A. Just the two officers.

Q. Pardon me?

A. The two officers.

Q. Okay. And you picked out number 6, is that correct?

A. Yes.

Q. And what was it about number 6 that drew your attention?

**MR. DOEH:** Objection, Your Honor. What's the relevance?

**THE COURT:** Yeah, I don't see the relevance of that either. Sustained.

**BY MR. SCHARG:**

Q. Did you -- did anyone -- it took you two seconds to pick out the photograph, is that correct? Immediately?

A. Yes, yes.

Q. One, two, you went right to him?

A. After I looked at the pictures, I recognized the guy.

Q. Okay. So when you looked at the array, it took you two seconds?

A. It may have been longer than two seconds.



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1 Q. Okay. How long do you believe it took you?

2 A. Maybe 30 seconds.

3 Q. And you identified the individual, and did you think it  
4 looked like him, or, you know, what did you say?

5 **MR. DOEH:** Objection, Your Honor.

6 **THE COURT:** Mr. Scharg, I mean, I can see that you  
7 want to establish whether she had an opportunity to really  
8 view him and make that connection, but these questions go  
9 significantly beyond that. Sustained.

10 **MR. SCHARG:** Very good. I have no further  
11 questions.

12 **MR. DOEH:** No questions, Your Honor.

13 **THE COURT:** All right. Thank you, Ms. Howard, you  
14 may step down.

15 (Witness excused 10:52 a.m.)

16 **MR. SCHARG:** I have no argument.

17 **THE COURT:** You have no argument, so you concede?

18 **MR. SCHARG:** I have no argument, and I know I have  
19 the burden, and I have no argument to make toward that burden.

20 **THE COURT:** This witness clearly is credible and  
21 consistent in her story, had an opportunity to view the  
22 perpetrator, there's nothing suggestive or improper about the  
23 lineup itself, and I don't have any problem with this  
24 identification procedure. So thank you, Ms. Howard.

25 (End of excerpt.)

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**C E R T I F I C A T I O N**

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I, Suzanne Jacques, Official Court Reporter for the United States

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District Court, Eastern District of Michigan, Southern Division,

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hereby certify that the foregoing is a correct transcript of the

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proceedings in the above-entitled cause on the date set forth.

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Suzanne Jacques, RPR, RMR, CRR, FCRR

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Official Court Reporter

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Eastern District of Michigan

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